

ORDINANCE NO. 2018-28

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD ON THE 6TH DAY OF NOVEMBER 2018, FOR THE PURPOSE OF VOTING ON THE ADOPTION OR REJECTION OF PROPOSED AMENDMENTS TO THE EXISTING CITY CHARTER OF THE CITY OF HUNTSVILLE, TEXAS, AS AMENDED; DESIGNATING THE PLACES AND MANNER OF HOLDING THE ELECTION; AND PROVIDING FOR THE POSTING AND PUBLICATION OF NOTICE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Huntsville, Texas, in the exercise of the discretion reposed in it by the Constitution and laws of this State, and in accordance with the provisions of Chapter 9 of the Texas Local Government Code, and in accordance with its City Charter, has determined to submit for adoption or rejection amendments to the existing Charter of the City of Huntsville, at a special election to be held to be held November 6, 2018; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, that:

The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

SECTION 1. A special municipal election of the City of Huntsville shall be held between the hours of seven (7:00) o'clock a.m. and seven (7:00) o'clock p.m. on the 6th day of November 2018, for adoption or rejection, proposed amendments to the City Charter of the City of Huntsville, Texas.

SECTION 2. The City is hereby divided into seven (7) election precincts. The polling places for these election precincts shall be as follows:

Precinct	Polling Place	101 Walker County Justice Center, 717 FM 2821
102	Walker County Annex; 1301 Sam Houston Avenue, Suite 101	
201	Walker County Storm Shelter; 455 State Highway 75	
205	Elkins Lake Recreation Conference Center; 634 Cherry Hills Drive	
206	Huntsville Fire Station No. 1; 1987 Veterans Memorial Parkway	
301	Huntsville ISD Transportation Building; 95 Martin Luther King	
401	University Heights Baptist Church; 2400 Sycamore Avenue	

SECTION 3. This election shall be held in accordance with, and shall be governed by, the election laws of the State of Texas. In all City elections, the Mayor, City Secretary or City Council shall do and perform each act as in other elections required to be done and performed, respectively, by the County Judge, the County Clerk or the Commissioners' Court. The City Council has determined, pursuant to Chapter 31 of the Texas Election Code, that the City is authorized to enter into an Election Services Agreement with Walker County, Texas, and, pursuant to Chapter 271 of the Texas Election Code, the City is authorized to enter into a Joint Election Agreement with Walker County and other participating political subdivisions for this election. The City Secretary and Mayor are hereby authorized to perform all duties and take all actions as required by any joint election agreement(s) and/or the contract(s) for election services that may be authorized by City Council.

SECTION 4. The form of the ballot for the election shall be as follows:

OFFICIAL BALLOT
Special Election
City of Huntsville, Texas
November 6, 2018

SECTION 5. PROPOSED CHARTER AMENDMENTS

AMENDMENT A. Amending Article III, Section 3.04 to ensure City practices are consistent with current state law by amending the last sentence by deleting the language “...Chapter 106, Page 489, Acts of the Fortieth Legislature of the State of Texas, First Called Session, 1927, as heretofore or hereafter amended, the same being Article 1105b of the Revised Civil Statutes of Texas, 1925...” and adding new language so that the last sentence in Section 3.04 shall read as follows:

“As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with all of the powers granted to cities permitted by law.”

AMENDMENT B. Amending Article IV, Section 4.06 to by deleting the last sentence “The City Secretary shall furnish two copies of the minutes of all Council meetings to the City Library within thirty days after their approval; such copies of minutes of the Council shall become and be maintained as permanent public records.” and adding new language so that the last sentence of section 4.6 shall read as follows:

“Written minutes of the City Council meeting are to be kept as permanent records with provisions for public access.”

AMENDMENT C. Amending Article IV, Section 4.08 to by inserting new language “No action of the Council shall be of any force or effect unless considered by five (5) councilmembers, with no abstentions.” before the last sentence so 4.8 shall read as follows:

The Council shall by ordinance determine its own rules and order of business. A majority of the Council qualified and serving shall constitute a quorum for all meetings for the transaction of all business, but no action of the Council shall be of any force and effect unless it is adopted by the favorable vote of a majority of the members of the Council qualified and serving, unless otherwise provided by this Charter. *No action of the Council shall be of any force or effect unless considered by five (5) councilmembers, with no abstentions.* Minutes of all meetings of the Council shall be taken and recorded, and such minutes shall constitute a public record.

AMENDMENT D. Amending Article IV, Section 4.12 by inserting a new section (5) after the 2nd paragraph “; or (5) *When a state statute provides that it controls over a city charter*” so that the amended portions of Section 4.12 shall read as follows:

SECTION 4.12 PROCEDURE TO ENACT LEGISLATION

The Council may legislate and act only by ordinance, resolution or motion; and all ordinances, resolutions or motions, except ordinances making appropriations, shall be confined to one subject, which shall be clearly expressed in the title, and ordinances making appropriations shall be confined to the subject of appropriations. The enacting clause of every ordinance shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS." Before any ordinance shall be adopted, the attorney for the city shall approve such ordinance in writing as to form or shall file with the City Secretary written legal objections thereto. Every ordinance enacted by the Council shall be signed by the Mayor, however, should the Mayor refuse to sign or is unable to sign in his or her official capacity the Mayor Pro-Tem shall act in his or her stead. Should neither the Mayor nor Mayor Pro-Tem be able to perform, any two (2) Councilmembers shall sign the Ordinance. Every ordinance shall be filed with and recorded by the City Secretary before the same shall become effective. Every ordinance shall

become effective upon adoption, or at any later time specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective after the procedures in Article IV, Section 4.14 4.13 [The “4.13” section number correction is a scrivener’s error from the prior election, not an amendment] of this Charter have been followed.

Except as otherwise provided in this charter, no ordinance shall be finally passed until it has been considered by the Council at two (2) separate council meetings unless the requirements for reading it on two (2) separate days be dispensed with by the affirmative vote of a two-thirds (2/3) majority of the Council qualified and serving. The requirement of consideration on an ordinance at two (2) separate council meetings shall not apply and only one (1) reading at one (1) Council meeting shall be required for the final passage of an ordinance relating to:

- (1) The adoption or amendment of a budget;
- (2) The assessment, levy or collection of taxes;
- (3) The calling of an election or the canvassing of the returns and declaration of the results of an election;
- (4) An emergency; *or*
- (5) *When a state statute provides that it controls over a city charter.*

AMENDMENT E. Amending Article IV, Section 4.17 to allow the Council to make an appointment to fill a vacancy of twelve months or less by amending it to read (but recommending no changes to Article V, Section 5.04, so that no appointment of any length may be made by the Council for the position of Mayor):

For vacancies in the office of Councilmember arising from any cause, for an expired term of twelve months or less, the remaining members of the City Council may appoint a person to serve as a Councilmember or call a special election to be held on the first uniform election date not earlier than 30 days after the vacancy occurs. The City Council shall not appoint more than one Councilmember in any twelve-month period.

Vacancies in the office of Councilmember arising from any cause *for an unexpired term of more than twelve months* shall be filled for the remainder of the unexpired term at an election to be held on the first uniform election date not earlier than 30 days after the vacancy occurs. A special election shall be called in *accordance with state law* to elect successors to fill such unexpired terms. Any person elected to fill a vacancy in the office of Councilmember shall possess all of the qualifications herein required for the office.

AMENDMENT F. Amending Article IV, Section 4.18 by removing the word “Any” and by inserting the phrase “The Mayor or a” at the beginning of the sentence so section 4.18 shall read as follows:

The Mayor or a Councilmember who is absent from more than four consecutive regular meetings of the Council, unless such absences are the result of illness or the conduct of official City business, shall be deemed to have forfeited the office and the Council shall fill such vacancy in the manner prescribed by the Charter.

AMENDMENT G. Amending Article V, Section 5.08 by removing the word “To” in subsection (a) and inserting the word “Must” at the beginning of subsection (a) so section 5.08(a) shall read as follows:

Unless otherwise provided by law or by this Charter, the powers and responsibilities of the Mayor shall include, but shall not be limited by the following:

- (a) *Must* appoint, subject to the confirmation and approval of the Council, the City Secretary, the City Attorney, the Municipal Court Judge, the Certified Public Accountant, and all members of all Boards, Commissions and Committees of the City.

AMENDMENT H. Amending Article VI, by removing Section 6.06, which is not required by state law, which currently reads:

SECTION 6.06 FILING FEES

An application to become a candidate for Mayor and/or Councilmember must be accompanied by a filing fee of One Dollar (\$1.00). The payment of such filing fees shall be in cash.

AMENDMENT I. Amending Article VI, Section 6.07 amending the second sentence by deleting the language “...not earlier than the eighth day or later than the eleventh day after the election...” so the canvassing can be done pursuant to state law and so that the second sentence in Section 6.07 shall read as follows:

The Council shall canvass the returns, investigate the qualifications of the candidates, and declare the official results of the election.

AMENDMENT J. Amending Article VI, Section 6.08 to qualify city officials in accordance with state law by amending the second sentence by deleting the language “...general...” and “...not earlier than the eighth day or later than the eleventh day following the date of their election...” and deleting the third sentence “All other newly elected or appointed officials may enter upon their duties immediately.” and inserting the language “in accordance with state law” so that Section 6.08 shall read as follows:

It shall be the duty of the City Secretary to notify all persons elected or appointed to office of their election or appointment. All officials newly elected at a City election may enter upon their duties in accordance with state law. All elected or appointed officials must qualify by taking and subscribing their oath of office within thirty days following the date of their election or appointment; otherwise, the office shall be deemed vacant.

AMENDMENT K. Amending Article VII, Section 7.03 so petitions can be done in accordance with state law, by amending the third sentence by inserting new language “or date of birth” and deleting the language “...the signer's ward or precinct number.” so that the third sentence in Section 7.03 shall read as follows: *For a petition signature to be valid, a petition must contain, in addition to the signature, the printed name of the signer, the signer's voter registration number or date of birth, the signer's residence address, and the date of signing.*

AMENDMENT L. Amending Article XI, Section 11.02 on fiscal procedures by inserting new language “ensure internal controls are in place to provide assurance that bills, invoices, payrolls, claims, demands, or charges against the City are valid:” to the first paragraph so that the first paragraph in Section 11.02 shall read as follows:

The Director of Finance shall administer and supervise all financial affairs of the City, and to that end shall have authority and shall be required to ensure internal controls are in place to provide assurance that bills, invoices, payrolls, claims, demands, or charges against the City are valid:

AMENDMENT M. Amending Article XI, Section 11.02(d) by deleting the language at the beginning “*Audit and approve...*” and inserting new language at the beginning “*Review for approval*” so that Section 11.02(d) shall read as follows:

Review for approval before payment all bills, invoices, payrolls, and other evidence of claims, demands or charges against the City. The Director of Finance shall, when it is deemed necessary, seek the written advice of the City Attorney in order to determine the regularity, legality, and correctness of such claims, demands, or charges, prior to presentation of the same to the Council for approval.

AMENDMENT N. Amending Article XI, Section 11.02(e) by inserting new language at the end of the first sentence “*, with provisions for public access.*” and deleting the second sentence “*A copy of such statements shall be submitted to the Huntsville Public Library.*” so that Section 11.02(e) shall read as follows:

Submit to the Council through the Mayor a quarterly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City, with provisions for public access.

AMENDMENT O. Amending Article XI, Section 11.02(f) by deleting the last sentence “*A copy of the financial report as approved or rejected shall be submitted to the Huntsville Public Library for its public journals at the same time it is released for official publication, and one or more copies of such report shall be made available in the office of the Director of Finance for public inspection during normal office-hours.*” and inserting new language “*Provision shall be made for public access.*” as the last sentence so that Section 11.02(f) shall read as follows:

“Publish in the official newspaper of the City, a financial statement of the financial condition of the City, including the status of all general and special accounts, and bonded and other indebtedness of the City in the form and as often as a majority of the Councilmembers qualified and serving may require, but at least once each fiscal year. Such financial report must be audited by a Certified Public Accountant which shall be the same one as appointed under Section 11.16 of this Charter and shall possess the qualifications as set out in said Section. Prior to publication, the financial report shall be submitted to the Council for acceptance or rejection. Such acceptance or rejection must be made at a regular meeting of the Council and the results shall be made a matter of record and shall be reflected on the report when published as above provided. Provision shall be made for public access.”

AMENDMENT P. Amending Article XI, Section 11.02(h) by deleting the first three words “*Have custody of*” and inserting new language “*Record*” at the beginning and deleting the language “*...and have the safe keeping of all bonds and notes of the City and the receipt and delivery of City bonds, warrants, and notes for transfer, registration or exchange. The Director of Finance shall be responsible for the destruction of redeemed, paid and canceled bonds, warrants, and notes.*” so that Section 11.02(h) shall read as follows:

“Record all investments in investor funds of the City, or in the possession of the City in a fiduciary capacity.”

AMENDMENT Q. Amending Article XI, Section 11.03 by inserting new language “*/electronic*” in the last sentence so that the last sentence Section 11.03 shall read as follows:

"Provided, that the Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine/electronic-imprinted, facsimile signatures of said Mayor and City Manager on such checks, vouchers and warrants."

AMENDMENT R. Amending Article XI, Section 11.09 by deleting the number "19" in the second sentence because all years now begin with "20" and inserting the new language "(stating the tax year)" in the second sentence so that the second sentence of Section 11.09 shall read as follows:

Such borrowing shall be made by the issuance of negotiable notes of the City, each of which shall be designated "tax anticipation note for the year __ (stating the tax year)".

AMENDMENT S. Amending Article XI, Section 11.16 by deleting the language "*copies placed on file in the office of the Director of Finance and the Huntsville Public Library as public record*" in the last sentence and inserting new language "provisions made for public access." in the last sentence so that the last sentence of Section 11.16 shall read as follows:

Upon completion of the audit, the results thereof shall be published immediately in a newspaper of the City of Huntsville and provisions made for public access.

AMENDMENT T. Amending Article XI, by removing Section 11.17 which currently reads:

SECTION 11.17 LIMITATION ON ISSUANCE OF NEW DEBT BY CITY COUNCIL

Any new issuance of new debt that exceeds the total of .002 (two-tenths of one percent) of the net taxable value as certified by the Walker County Appraisal District applicable to the City tax roll for the fiscal year in which the funds are approved shall be submitted to the qualified voters of the City of Huntsville, Texas provided that the issuance of new debt is not required for an emergency or disaster that includes the City of Huntsville as declared by the Governor of the State of Texas or the President of the United States or an emergency or disaster is declared by the majority vote of City Council only because of an imminent threat to public health and safety. A favorable majority of all votes cast at the City election is required for approval.

AMENDMENT U. Amending Article XIII, Section 13.01 by deleting the first sentence "The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the City is hereby declared to be inalienable by the City, except by ordinances not in conflict with the provisions of this Charter." and inserting a new first sentence "*The City shall have the full power, to the extent the same is conferred by applicable law, to own, lease, operate, prohibit, regulate and control any public utility within or without the limits of the City and to provide for the compensation and rental to be paid to the City by any public utility for the use of its streets, highways and public areas.*" so that the first sentence of Section 13.01 shall read:

"The City shall have the full power, to the extent the same is conferred by applicable law, to own, lease, operate, prohibit, regulate and control any public utility within or without the limits of the City and to provide for the compensation and rental to be paid to the City by any public utility for the use of its streets, highways and public areas."

AMENDMENT V. Amending Article XIII, Section 13.02 by deleting the first sentence "*The Council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City and, with the consent of the franchise holder, to amend the same.*"

and inserting new first and second sentences *“The City Council shall have power by ordinance to grant, renew and extend all franchises of public utilities of every character operating within the City and for such purposes is granted full power. The term “public utility” as used herein is construed to mean any person, firm or corporation furnishing to the public any general public service, including, but not limited to heat, light, gas, power, telephone service, communication services, community antenna or cable television service, sewer service and the treatment thereof, water, wrecker service, the carrying of passengers for hire, or any other public service whereby a right to, in part, appropriate or use the streets, highways, or other property of the City, as necessary or proper is granted.”* so that Section 13.02 shall read as follows:

“The City Council shall have power by ordinance to grant, renew and extend all franchises of public utilities of every character operating within the City and for such purposes is granted full power. The term “public utility” as used herein is construed to mean any person, firm or corporation furnishing to the public any general public service, including, but not limited to heat, light, gas, power, telephone service, communication services, community antenna or cable television service, sewer service and the treatment thereof, water, wrecker service, the carrying of passengers for hire, or any other public service whereby a right to, in part, appropriate or use the streets, highways, or other property of the City, as necessary or proper is granted. Provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than thirty years.”

AMENDMENT W. Amending Article XIII, Section 13.04 by inserting new language *“Except as provided by law...”* to follow state law so that Section 13.04 shall read as follows:

“Except as provided by law, no public utility franchise shall be transferred by the holder thereof except with the approval of the Council expressed by the ordinance.”

AMENDMENT X. Amending Article XIII, Section 13.06 by inserting new language *“and establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates”* in subsection (b); by inserting new language *“and to require that maintenance of facilities be performed at the highest reasonable standard of efficiency.”* in subsection (c); and by inserting new language to add a new subsection *“(j) To require that the franchise holder restore to the applicable City standards at that time, at his/her expense, all public and private property damaged or destroyed by construction, maintenance, or removal by such franchise holder.”* so that subsections (b), (c) and (j) shall read as follows:

“(b) To impose reasonable regulations to insure safe, efficient, and continuous service to the public and establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

(c) To require such expansion, extension, enlargement, and improvement of plants and facilities as are necessary to provide adequate service to the public and to require that maintenance of facilities be performed at the highest reasonable standard of efficiency.

(j) To require that the franchise holder restore to the applicable City standards at that time, at his/her expense, all public and private property damaged or destroyed by construction, maintenance, or removal by such franchise holder.”

AMENDMENT Y. Amending Article XIII, by inserting a new Section 13.08:

“SECTION 13.08 OTHER FRANCHISE CONDITIONS

All franchises heretofore granted are recognized as contracts between the City and the grantee, and the

contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the City to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved; and except that the general power of the City, heretofore existing and herein provided for to regulate the rates and services of a grantee, shall include the right to require proper and adequate extension of plant and service and the maintenance of the plant and equipment at the highest reasonable standard of efficiency. All franchises hereafter granted shall be held subject to all terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise."

AMENDMENT Z. Amending Article XIII, by inserting a new Section 13.09:

"SECTION 13.09 REGULATION OF RATES AND SERVICE

The City Council subject to applicable law shall have full power, after due notice and hearing, to regulate by ordinance the rates, charges, and fares of every public utility franchise holder operating in the City. Every franchise holder who shall request an increase in rates, charges or fares shall have, at a hearing of the City Council called to consider such request, the burden of establishing by clear, competent, and convincing evidence the value of its investment property allocable to service in the City, the amount and character of its expenses and revenues connected with the rendering of such service, and any additional evidence required by the City Council. If no agreement between the City Council and the franchise holder can be reached on such request for an increase in rates, charges, or fares, the City Council may select and employ rate consultants, auditors and attorneys to investigate and, if necessary, litigate such request. The franchise holder shall reimburse the City for its reasonable and necessary expenses so incurred and may be allowed to recover such expenses through its rates during the period of recovery if authorized to do so by the City Council."

AMENDMENT AA. Amending Article XIV, Section 14.05 to follow state law by deleting the words "OFFICIAL NEWSPAPER" and the following language "have the power to contract annual with and, by ordinance or resolution, designate the public newspaper of general circulation in the City as the official organ thereof and to continue as such until another is designated, and, therein..." and inserting new language "cause to be published in any medium allowed by state law." so that Section 14.05 shall read as follows:

"SECTION 14.05 INFORMATION ON PUBLIC MATTERS

The Council shall cause to be published in any medium allowed by state law all ordinances, notices, and other matters required by this Charter, by the ordinances of the City, and by the Constitution or laws of the State of Texas to be published."

AMENDMENT BB. Amending Article XIV, Section 14.11 by deleting the words "shall not be entitled to such reimbursements exceeding Five Hundred Dollars" and "Five Hundred Dollars" in the first sentence and inserting new language "the limit may only be exceeded by the affirmative vote of a two-thirds (2/3) majority of the Council qualified and serving" to the end of the first sentence so that the first sentence of Section 14.05 shall read as follows:

"The Council may authorize the reimbursement of actual and receipted expenses incurred by any officer or employee of the City while acting in the City's behalf in their official capacity; provided, the Mayor for each fiscal year and Councilmembers shall not be entitled to such reimbursements exceeding each for each fiscal year; the limit may only be exceeded by the affirmative vote of a two-thirds (2/3) majority of the Council qualified and serving."

AMENDMENT CC. Amending Article XIV, Section 14.13 to follow state law by deleting the following language in subsection (b) "No sale or lease of real estate shall be made by the Council without first

causing to be advertised for bids by a notice in the official newspaper of the City for two consecutive weeks setting out the property proposed to be sold or leased, the conditions under which the bids would be received and the time and place they would be opened.” and inserting new language “Any sale or lease of real estate owned by the City shall be performed according to state law.” so that subsection (b) shall read as follows:

“(b) Any sale or lease of real estate owned by the City shall be performed according to state law.”

AMENDMENT DD. Amending Article XIV, Section 14.14 by deleting the following language *“The Council may award contracts only at regular meetings of the Council except in the event of grave public emergency or calamity. It is further provided that from the date of any City general election until the members of the Council elected at such election have duly qualified and taken office, the Council shall not create, make, or enter into any contract for the purchase of materials, supplies, land, or buildings, or for the construction or repair of any public building or the carrying on of any public work, or professional services requiring or authorizing any expenditure in excess of one thousand dollars which creates or imposes on the City any obligation or liability of any nature or character whatsoever, except in the event of grave public emergency or calamity. It is specifically provided, however, that this provision shall not apply to contracts lawfully authorized prior to any City general election or to contracts which may hereafter be lawfully authorized by a vote of the qualified voters of the City, or to contracts made for the purpose of continuing the normal functions of any regularly established department of the City. Any and all contracts hereafter made by the City in violation of the terms of this provision shall be void and shall not be enforceable in any court of this State and the performance of same and the payment of any money there under may be enjoined by any property tax paying citizen of the City.”* and inserting new language *“From the date of any general election until the canvassing of said election, the Council shall not create, make, or enter into any contract in excess of fifty thousand dollars.”* so that Section 14.14 shall read as follows:

“From the date of any general election until the canvassing of said election, the Council shall not create, make, or enter into any contract in excess of fifty thousand dollars.”

AMENDMENT EE. Amending Article XIV, by removing Section 14.18 which currently reads:

SECTION 14.18 PUBLICITY OF REPORTS RELATING TO MUNICIPAL MATTERS

All reports made by the State of Texas or any of its agencies, or departments concerning the City or any function performed by it shall be read publicly at the first regular meeting of the Council following receipt of such report.

AMENDMENT FF. Amending Article XIV, Section 14.19 by inserting new language “Any elected official of the City convicted in any court of a crime involving moral turpitude shall forfeit his or her office.” so that Section 14.19 shall read:

Any willful violation of the provisions of this Charter or of the laws of the State of Texas relating to Home Rule Cities shall constitute malfeasance in office, and any officer or employee of the City guilty thereof shall immediately forfeit their office or position, and said office or position shall be deemed vacant. Any elected official of the City convicted in any court of a crime involving moral turpitude shall forfeit his or her office.

SECTION 6. The official ballots to be used in this special election shall comply with the applicable provisions of the Texas Election Code, shall state each proposed amendment separately and distinctly so that the voters shall pass upon each amendment separately and apart from another so that each voter may vote “For” or “Against” any

amendment or amendments without voting "For" or "Against" all such amendments, and shall have written or printed thereon the following:

CHARTER AMENDMENTS

CITY OF HUNTSVILLE PROPOSITION A

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall the last sentence of Article III, Section 3.04 of the City Charter relating to street improvement and development be amended to read as follows?

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with all of the powers granted to cities permitted by law.

CITY OF HUNTSVILLE PROPOSITION B

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall the last sentence of Article IV, Section 4.06 of the City Charter relating to the City Secretary be amended to read as follows?

Written minutes of the City Council meeting are to be kept as permanent records with provisions for public access.

CITY OF HUNTSVILLE PROPOSITION C

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article IV, Section 4.08 of the City Charter relating to City Council action have the following sentence inserted?

No action of the Council shall be of any force or effect unless considered by five (5) councilmembers with no abstentions.

CITY OF HUNTSVILLE PROPOSITION D

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

In Article IV, Section 4.12 of the City Charter, shall the exceptions to the requirement for two separate readings of ordinances be amended to have the following statement (5) inserted?

(5) "When a state statute provides that it controls over a city charter."

CITY OF HUNTSVILLE PROPOSITION E

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article IV, Section 4.17 be amended to allow the Council to make an appointment to fill a vacancy of twelve months or less by amending it to read as follows (with no changes to Article V, Section 5.04, so that no appointment of any length may be made by the Council for the position of Mayor)?

For vacancies in the office of Councilmember arising from any cause, for an expired term of twelve months or less, the remaining members of the City Council may appoint a person to serve as a Councilmember or call a special election to be held on the first uniform election date not earlier than 30 days after the vacancy occurs. The City Council shall not appoint more than one Councilmember in any twelve-month period.

Vacancies in the office of Councilmember arising from any cause *for an unexpired term of more than twelve months* shall be filled for the remainder of the unexpired term at an election to be held on the first uniform election date not earlier than 30 days after the vacancy occurs. A special election shall be called in *accordance with state law* to elect successors to fill such unexpired terms. Any person elected to fill a vacancy in the office of Councilmember shall possess all of the qualifications herein required for the office.

CITY OF HUNTSVILLE PROPOSITION F

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article IV, Section 4.18 of the City Charter relating to forfeiture of office be amended to clearly include the position of Mayor so that Section 4.18 shall read as follows?

The Mayor or a Councilmember who is absent from more than four consecutive regular meetings of the Council, unless such absences are the result of illness or the conduct of official City business, shall be deemed to have forfeited the office and the Council shall fill such vacancy in the manner prescribed by the Charter.

CITY OF HUNTSVILLE PROPOSITION G

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article V, Section 5.08(a) of the City Charter relating to the Mayor's duties be amended to indicate the Mayor must make appointments, so that subsection (a) reads as follows?

(a) *Must* appoint, subject to the confirmation and approval of the Council, the City Secretary, the City Attorney, the Municipal Court Judge, the Certified Public Accountant, and all members of all Boards,

Commissions and Committees of the City.

CITY OF HUNTSVILLE PROPOSITION H

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article VI, Section 6.06 of the City Charter relating to a City Council candidate filing fee be deleted?

CITY OF HUNTSVILLE PROPOSITION I

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article VI, Section 6.07 of the City Charter relating to canvassing election returns be amended to be in accordance with dates set by state law by deleting the following language “...not earlier than the eighth day or later than the eleventh day after the election...”?

CITY OF HUNTSVILLE PROPOSITION J

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Amending Article VI, Section 6.08 to qualify city officials in accordance with state law by amending the second sentence by deleting the language “...general...” and “...not earlier than the eighth day or later than the eleventh day following the date of their election...” and deleting the third sentence “All other newly elected or appointed officials may enter upon their duties immediately.” and inserting the language “in accordance with state law” so that Section 6.08 shall read as follows:

It shall be the duty of the City Secretary to notify all persons elected or appointed to office of their election or appointment. All officials newly elected at a City election may enter upon their duties in accordance with state law. All elected or appointed officials must qualify by taking and subscribing their oath of office within thirty days following the date of their election or appointment; otherwise, the office shall be deemed vacant.

CITY OF HUNTSVILLE PROPOSITION K

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article VII, Section 7.03 of the City Charter relating to items included on petitions be amended by

amending the third sentence to be in accordance with state law so that the third sentence of Section 7.03 reads as follows?

For a petition signature to be valid, a petition must contain, in addition to the signature, the printed name of the signer, the signer's voter registration number or date of birth, the signer's residence address, and the date of signing.

CITY OF HUNTSVILLE PROPOSITION L

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XI, Section 11.02 of the City Charter relating to fiscal procedures be amended by amending the first paragraph to read as follows?

The Director of Finance shall administer and supervise all financial affairs of the City, and to that end shall have authority and shall be required to ensure internal controls are in place to provide assurance that bills, invoices, payrolls, claims, demands, or charges against the City are valid:

CITY OF HUNTSVILLE PROPOSITION M

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XI, Section 11.02(d) of the City Charter relating to fiscal procedures be amended by amending subsection (d) so that Section 11.02(d) reads as follows?

Review for approval before payment all bills, invoices, payrolls, and other evidence of claims, demands or charges against the City. The Director of Finance shall, when it is deemed necessary, seek the written advice of the City Attorney in order to determine the regularity, legality, and correctness of such claims, demands, or charges, prior to presentation of the same to the Council for approval.

CITY OF HUNTSVILLE PROPOSITION N

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XI, Section 11.02(e) of the City Charter relating to quarterly statements be amended by amending subsection (e) so that Section 11.02(e) reads as follows?

Submit to the Council through the Mayor a quarterly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City, with provisions for public access.

CITY OF HUNTSVILLE PROPOSITION O

☐ **FOR (A favor)**

☐

AGAINST (Contra)

Shall Article XI, Section 11.02(f) of the City Charter relating to statements of the financial condition of the City be amended by deleting the last sentence *“A copy of the financial report as approved or rejected shall be submitted to the Huntsville Public Library for its public journals at the same time it is released for official publication, and one or more copies of such report shall be made available in the office of the Director of Finance for public inspection during normal office-hours.”* and inserting as the last sentence *“Provision shall be made for public access.”*?

CITY OF HUNTSVILLE PROPOSITION P

☐

FOR (A favor)

☐

AGAINST (Contra)

Shall Article XI, Section 11.02(h) of the City Charter relating to fiscal procedures be amended by amending subsection (h) so that Section 11.02(h) reads as follows?

“Record all investments in investor funds of the City, or in the possession of the City in a fiduciary capacity.”

CITY OF HUNTSVILLE PROPOSITION Q

☐

FOR (A favor)

☐

AGAINST (Contra)

Shall Article XI, Section 11.03 of the City Charter relating to depository procedures be amended by amending the last sentence to include the term “electronic” so that the last sentence of Section 11.03 reads as follows?

“Provided, that the Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine/electronic-imprinted, facsimile signatures of said Mayor and City Manager on such checks, vouchers and warrants.”

CITY OF HUNTSVILLE PROPOSITION R

☐

FOR (A favor)

☐

AGAINST (Contra)

Shall Article XI, Section 11.09 of the City Charter relating to tax notes be amended for the year to read *“(stating the tax year)”* rather than giving the year as “19__”?

CITY OF HUNTSVILLE PROPOSITION S

☐

FOR (A favor)

☐

AGAINST (Contra)

Shall Article XI, Section 11.16 of the City Charter relating to independent audits be amended by amending the last sentence to allow for public access by deleting “...copies placed on file in the office of the Director of Finance and the Huntsville Public Library as public record...” and inserting “provision made for public access” so that the last sentence of Section 11.16 reads as follows?

Upon completion of the audit, the results thereof shall be published immediately in a newspaper of the City of Huntsville and provisions made for public access.

CITY OF HUNTSVILLE PROPOSITION T

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XI, Section 11.17 of the City Charter relating to limitation on issuance of new debt be deleted to be in accordance with state law?

CITY OF HUNTSVILLE PROPOSITION U

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XIII, Section 13.01 of the City Charter relating to public property be amended by to follow state law by deleting the first sentence “*The right of control and use of the public streets, highways, sidewalks, alleys, parks, public squares, and public places of the City is hereby declared to be inalienable by the City, except by ordinances not in conflict with the provisions of this Charter.*” and inserting a new first sentence “*The City shall have the full power, to the extent the same is conferred by applicable law, to own, lease, operate, prohibit, regulate and control any public utility within or without the limits of the City and to provide for the compensation and rental to be paid to the City by any public utility for the use of its streets, highways and public areas.*”?

CITY OF HUNTSVILLE PROPOSITION V

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall the first sentence of Article XIII, Section 13.02 of the City Charter relating to granting franchises be amended by deleting the first sentence and inserting new first and second sentences so that Section 13.02 shall read as follows?

“The City Council shall have power by ordinance to grant, renew and extend all franchises of public utilities of every character operating within the City and for such purposes is granted full power. The term “public utility” as used herein is construed to mean any person, firm or corporation furnishing to the public any general public service, including, but not limited to heat, light, gas, power, telephone service, communication services, community antenna or cable television service, sewer service and the treatment thereof, water, wrecker service, the carrying of passengers for hire, or any other public service whereby a right to, in part, appropriate or use the streets, highways, or other property of the City, as necessary or proper is granted. Provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than thirty years.”

CITY OF HUNTSVILLE PROPOSITION W

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XIII, Section 13.04 of the City Charter relating to transfer of franchises be amended by inserting new language "*Except as provided by law....*" to read as follows?

Except as provided by law, no public utility franchise shall be transferred by the holder thereof except with the approval of the Council expressed by the ordinance.

CITY OF HUNTSVILLE PROPOSITION X

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XIII, Section 13.06 be amended by amending subsections 13.06(b), 13.06(c) and inserting a new subsection 13.06(j) so that subsections (b), (c) and (j) read as follows?

"(b) To impose reasonable regulations to insure safe, efficient, and continuous service to the public and establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

(c) To require such expansion, extension, enlargement, and improvement of plants and facilities as are necessary to provide adequate service to the public and to require that maintenance of facilities be performed at the highest reasonable standard of efficiency.

(j) To require that the franchise holder restore to the applicable City standards at that time, at his/her expense, all public and private property damaged or destroyed by construction, maintenance, or removal by such franchise holder."

CITY OF HUNTSVILLE PROPOSITION Y

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XIII of the City Charter relating to franchise and public utilities be amended to include a new Section 13.08 titled *Other Franchise Conditions*, to read as follows?

All franchises heretofore granted are recognized as contracts between the City and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the City to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved; and except that the general power of the City, heretofore existing and herein provided for to regulate the rates and services of a grantee, shall include the right to require proper and adequate extension of plant and service and the maintenance of the plant and equipment at the highest reasonable standard of efficiency. All franchises hereafter granted shall be held subject to all terms and conditions contained in the various sections of this article whether or not such terms are

specifically mentioned in the franchise.

CITY OF HUNTSVILLE PROPOSITION Z

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XIII of the City Charter relating to franchise and public utilities be amended to include a new Section 13.09 titled *Regulation of Rates and Service*, to read as follows?

The City Council subject to applicable law shall have full power, after due notice and hearing, to regulate by ordinance the rates, charges, and fares of every public utility franchise holder operating in the City. Every franchise holder who shall request an increase in rates, charges or fares shall have, at a hearing of the City Council called to consider such request, the burden of establishing by clear, competent, and convincing evidence the value of its investment property allocable to service in the City, the amount and character of its expenses and revenues connected with the rendering of such service, and any additional evidence required by the City Council. If no agreement between the City Council and the franchise holder can be reached on such request for an increase in rates, charges, or fares, the City Council may select and employ rate consultants, auditors and attorneys to investigate and, if necessary, litigate such request. The franchise holder shall reimburse the City for its reasonable and necessary expenses so incurred and may be allowed to recover such expenses through its rates during the period of recovery if authorized to do so by the City Council.

CITY OF HUNTSVILLE PROPOSITION AA

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XIV, Section 14.05 of the City Charter be amended to allow publication as provided by state law and to be retitled *Information on Public Matters* and to read as follows?

The Council shall cause to be published in any medium allowed by state law all ordinances, notices, and other matters required by this Charter, by the ordinances of the City, and by the Constitution or laws of the State of Texas to be published.

CITY OF HUNTSVILLE PROPOSITION BB

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall the first sentence of Article XIV, Section 14.11 of the City Charter be amended by deleting the words “*shall not be entitled to such reimbursements exceeding Five Hundred Dollars*” and “*Five Hundred Dollars*” in the first sentence and inserting new language “*the limit may only be exceeded by the affirmative vote of a two-thirds (2/3) majority of the Council qualified and serving*” to the end of the first sentence so that the first sentence of Section 14.05 shall read as follows?

“The Council may authorize the reimbursement of actual and receipted expenses incurred by any officer or employee of the City while acting in the City's behalf in their official capacity; provided, the Mayor for each fiscal year and Councilmembers shall not be entitled to such reimbursements exceeding each for each fiscal year; the limit may only be exceeded by the affirmative vote of a two-thirds (2/3) majority of

the Council qualified and serving."

CITY OF HUNTSVILLE PROPOSITION CC

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XIV, Section 14.13(b) of the City Charter regarding the sale or lease of real estate be amended to allow for the sale of land that is NOT public park land to be sold in accordance with state law so that 14.13(b) will be amended as follows?

"(b) Any sale or lease of real estate owned by the City shall be performed according to state law."

CITY OF HUNTSVILLE PROPOSITION DD

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XIV, Section 14.14 of the City Charter relating to Limitations on Contracts be amended to read as follows?

"From the date of any general election until the canvassing of said election, the Council shall not create, make, or enter into any contract in excess of fifty thousand dollars."

CITY OF HUNTSVILLE PROPOSITION EE

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XIV, Section 14.18 of the City Charter that relates to reading entire reports made by the State of Texas or any of its agencies on the City be deleted?

CITY OF HUNTSVILLE PROPOSITION FF

☐ **FOR (A favor)**

☐ **AGAINST (Contra)**

Shall Article XIV, Section 14.19 of the City Charter be amended to include a final sentence to read as follows?

Any elected official of the City convicted in any court of a crime involving moral turpitude shall forfeit his or her office.

SECTION 7. Diana L. McRae, the Walker County Election Officer/Tax Assessor-Collector, is the Early Voting Clerk (EVC), and Julie Cooper, Walker County Election Manager, is appointed Deputy Early Voting Clerk (DEVK), for the joint early voting approved by Commissioners' Court, as with respect to early voting in person and voting by mail, and the Walker County Annex, 1301 Sam Houston Avenue, Suite 101, is hereby designated as the Main Early Voting Site for early voting for the election.

Applications for ballot by mail shall be mailed, faxed, or emailed to:

Diana McRae, Walker County Tax Assessor-Collector

1301 Sam Houston Avenue, Suite 114, Huntsville, Texas 77340

Phone: (936) 436-4959 Fax Number: (936) 436-4961 Email: walkervr@co.walker.tx.us

Early Voting in the election by personal appearance shall be conducted at the times, dates and polling places as provided for in the Walker County Joint Election Agreement and the Election Services Contract between the City of Huntsville, Texas, and Walker County, Texas, and further adopts any additions or amendments to such concerning early voting times, dates, and polling location as approved by the Walker County Election Officer. During the lawful early voting period, such clerk shall keep such place for early voting open for early voting from 8:00 a.m. - 5:00 p.m., Monday through Friday, October 22-November 2, 2018; and from 7:00 a.m. - 7:00 p.m. on Tuesday, October 23, 2018, and Tuesday, October 30, 2018; except on official state holidays.

Weekend voting will be conducted at the Main Early Voting Site only, on October 27 and 28, 2018, from 1:00 p.m.- 5:00 p.m.

SECTION 8. The Mayor and City Secretary are hereby directed to give notice of the election by:

- a) causing said notice of such election to be published at least forty (40) days prior to the date of such election in the newspaper;
- b) by publishing the notice at least one time, not more than thirty (30) days nor less than ten (10) days before the election, in the newspaper;
- c) by filing with the City Secretary, for posting, a copy of said notice at least twenty-one (21) days before the election; and
- d) by posting on the City Hall bulletin board notice of the election at least twenty-one (21) days before the election.

The Mayor and City Secretary shall file with the City Secretary a copy of the notice as published, together with the name of the newspaper and the dates of publication.

SECTION 9. It is further found and determined that, in accordance with the order of this governing body, the City Secretary posted written notice of the date, place and subject of this meeting on the bulletin board located in the City Hall, a place convenient and readily accessible to the general public, and such notice having been so posted and remaining posted continuously for at least seventy-two (72) hours preceding the scheduled time of such meeting.

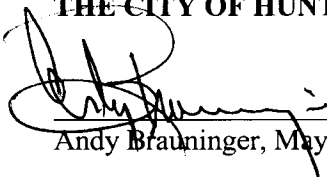
SECTION 10. That the Mayor and/or the City Secretary of the City of Huntsville are hereby authorized to execute and/or issue, for an on behalf of the City, such orders, documents and forms as may, from time to time, be promulgated by the Secretary of State of the State of Texas in conjunction with the election herein ordained.

SECTION 11. The Mayor and/or the City Secretary and the attorney for the City are hereby authorized and directed to make any filings required by the Federal Voting Rights Act. The Mayor and/or the City Secretary and the attorney for the City are further authorized and directed to take any action necessary to comply with the provisions of the Texas Elections Code, the Federal Voting Rights Act and the terms and provisions of any Election Services Contract(s) and the Joint Election Agreement(s) in carrying out the provisions of this Ordinance, whether or not expressly authorized herein.

SECTION 12. This ordinance shall take effect from and after its passage.

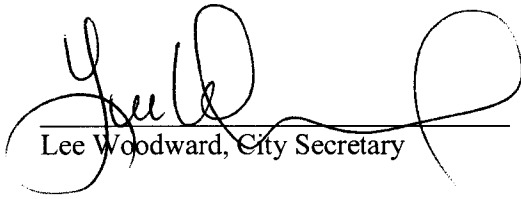
PASSED AND APPROVED this 7th day of August 2018.

THE CITY OF HUNTSVILLE



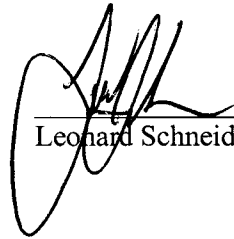
Andy Brauning, Mayor

ATTEST:



Lee Woodward, City Secretary

APPROVED AS TO FORM:



Leonard Schneider, City Attorney